



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/023,474 | 12/17/2001 | Luke K. Liang | | 3629 |

7590 12/06/2006
Thomas A. O'Rourke
Wyatt, Gerber & O'Rourke
99 Park Avenue
New York, NY 10016

EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3676

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/023,474 | Applicant(s) LIANG, LUKE K. | |
| | Examiner Carlos Lugo | Art Unit 3676 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-24 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on September 26, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-3 and 5-9 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat no 6,364,375 to Szapucki et al. (Szapucki) in view of US Pat No 1,656,818 to Dillon and further in view of US Pat No 4,923,230 to Simpson (Simpson '230).

Regarding claim 1, Szapucki discloses a vent stop comprising a housing (38) adapted to be disposed in a recess.

The housing includes a cavity (50) with a bottom plate (33). The bottom plate has a top surface forming at least a portion of an inside surface of the cavity and an edge being generally transverse to the top surface of the bottom plate.

The stop also comprises a tumbler (40) disposed in the cavity. The tumbler includes a protruding apex at the top, pivot means (65 and 66) for pivotally securing the tumbler to the housing for movement between an extended position where a front face of the tumbler overlies an edge of the sliding member to prevent movement of

the sliding member past the front face of the tumbler, and a retracted position within the cavity where the sliding member can be moved past the tumbler.

The stop further comprises spring means (32) for biasing the tumbler into the extended position.

However, Szapucki fails to disclose that the tumbler has a pivot member that has a bottom plate contact surface that contacts the edge of the bottom plate when the tumbler is in an extended position thereby being prevented from further travel by the edge. Szapucki discloses that the tumble has a pivot member (projection at the right of 65, Figure 7). However, this pivot member fails to contact the edge of the bottom plate, it contacts the bottom plate body so as to prevent further travel of the tumbler.

Dillon teaches that it is well known in the art to provide a pivotally stop member (40) having a pivot member (surface between 41 and 45a) that contact an edge of a plate surface (37) so as to prevent further travel of the stop member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pivot member described by Szapucki in contact with the edge of the plate, as taught by Dillon, since the fact that the pivot member contacting the edge or the body of the bottom plate is a design consideration within the art since it would not affect the movement of the tumble. With either surface, it would stop further traveling of the member.

Also, Szapucki fails to disclose that the housing comprises a rear wall. Szapucki discloses that the housing is open at both sides and that the tumbler's pivot member does not exceeds the housing perimeter when is in the extended position (Figure 9).

Simpson '230 teaches that it is well known in the art to provide a rear wall (54) that would not contact the pivot member of the tumbler when the tumbler is in the extended position (Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the housing described by Szapucki with a rear wall, as taught by Simpson '230, since it would be considered as a design consideration within the art that would not affect the movement of the tumbler toward the extended position. Further, this extra wall could give strength to the device or protection to the tumbler.

As to claim 2, Szapucki illustrates that the housing (38) has a faceplate and first and second housing members extending from the faceplate and wherein the bottom plate extends from at least one of the housing members (Figures 3-5).

As to claim 3, Szapucki illustrates that the first and second housing members are generally perpendicular to the faceplate and at least a portion of the bottom member is generally parallel to the faceplate (Figures 3-5).

As to claims 5-8, the fact that the sliding member is a double hung window, a window, a sash in a sliding window, or a door, it is considered as the intended use of the vent stop. The recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus, which differentiates it from a prior art reference disclosing the structural limitations of the claim.

As to claim 9, Szapucki, as modified by Dillon teaches that a force of the tumbler on the bottom plate is capable of being parallel to the top surface of the bottom plate when the tumbler is in an extended position.

Allowable Subject Matter

4. **Claims 10-24 are allowed.**
5. **Claim 4 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on September 26, 2006 have been fully considered but they are not persuasive.

The applicant argues that neither Szapucki nor Dillon teaches the new limitation that the pivot member contacts the edge of the bottom plate without contacting the rear wall (Page 13).

As seen in Figure 9, Szapucki clearly illustrates that the tumbler (40) does not pass the perimeter of the housing (at 60). Simpson '230 teaches that it is well known in the art to provide a rear wall (54) that would not contact the pivot member of the tumbler when the tumbler is in the extended position (Figure 3). Therefore, the argument is not persuasive.

Conclusion

7. Applicant's amendment, that the pivot member contacts the edge of the bottom plate without contacting the rear wall, necessitated the new ground(s) of rejection

presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Art Unit: 3676

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos Lugo
Patent Examiner
Art Unit 3676

December 4, 2006.



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER